REMARKS

Applicants appreciate the Examiner's acknowledgment of the claim for priority under 35 USC 119.

INFORMATION DISCLOSURE STATEMENT

The information disclosure statement filed with the application on October 1, 2001 was not considered because it failed to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each U.S. and foreign patent, publication and all other information or that portion which caused it to be listed.

As requested by the Examiner, a RESUBMISSION OF FOREIGN REFERENCES ORIGINALLY MADE OF RECORD IN PARENT APPLICATION was filed on July 7, 2004. It is, therefore, requested that the references in the October 1, 2001 Information Disclosure Statement be considered.

DRAWINGS

Being filed concurrently herewith is a Request for Approval of Drawing Corrections in which it is only being requested that Fig. 1 be amended to add the numeral 30 to identify the rack stoker as described in line 4 on page 15 of

the specification. It is requested that this change be approved.

CLAIM OBJECTIONS AND REJECTIONS UNDER 35 U.S.C. § 112

Claims 22 and 23 were rejected under 35 U.S.C. § 112 as being indefinite for failing to particularly point out and distinctly claims the subject matter which applicant regards as the invention for the reasons set forth in numbered paragraph 4 on pages 2 and 3 of the Action. Claims 22 and 23 have been amended to overcome this rejection.

CLAIM REJECTIONS UNDER 35 U.S.C. §102

Claims 22-23 and 26 were rejected under 35 U.S.C. § 102(b) as being anticipated by Shinohara JP 63200066 A and as being anticipated by Makiguchi JP 02087069 A for the reasons set forth on pages 3-5 of the Action.

Claims 24-25 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Shinohara or Makiguchi as applied to claims 22-23 and 26 above, and further in view of Clark et al. U.S. Patent No. 5,482,861 for the reasons set forth on page 6 of the Action.

For the reasons set forth hereafter, it is submitted that claims 22-26, as amended, are now patentable.

PATENTABILITY OF THE CLAIMS

The Examiner pointed out that claims 22 and 23 were indefinite and questioned whether a single or a plurality of "body fluid sample" was/were transferred. The claims have been amended to clarify that a "body fluid sample" contained in a sample bottle is single, and that "body fluid samples" refer to samples from body fluid transferred to another sample bottle which are a plurality of samples.

With regard to the rejection of claim 22, "when" does not mean a conditional occurrence but a specific case, and in a case that said body fluid sample is analyzed, sample sampling using the pipette used for an analysis item having a higher avoiding level of carry-over is executed prior to sample sampling using the pipette used for an analysis item having a lower avoiding level of carry-over.

The characteristic feature of the present invention is in executing a sample sampling with a pipette used for an analysis item having a higher avoiding level of carry-over, before executing the sample sampling with a pipette used for an analysis item having a lower avoiding level of carry-over.

The pipetting of the body fluid sample is performed by inserting the pipette into the sample bottle so as to suck the body fluid sample. After inserting the pipette into one of

the sample bottles, if the same pipette is inserted into another of the sample bottles, the sample in one of the sample bottles is mixed into the other sample bottle.

In order to prevent such mixing of the samples, the pipette is washed before inserting it into the other sample bottle.

In an analysis item to analyze a sample which does not need a high measuring sensitivity such as in a biological analyzing, such washing of the pipette can be used practically and easily. Such an analysis item which does not need a high measuring sensitivity is defined in the present invention as an analysis item having a lower avoiding level of carry-over.

However, in an analysis item to analyze a sample which needs an extremely high measuring sensitivity, such as in an immunity analyzing or DNA analyzing, merely washing of the pipette may not be sufficient.

Such an analysis item which needs the high measuring sensitivity is defined in the present invention as an analysis item having a higher avoiding level of carry-over.

Usually, different pipettes are used in connection with the analysis items which need the higher or the lower measuring sensitivity.

In such a situation, in the present invention, the sample sampling using a pipette used for an analysis item having a

higher avoiding level of carry-over is executed at first, and after that, the sample sampling using a pipette used for an analysis item having a lower avoiding level of carry-over is executed.

Thereby, if the sample executing the analysis item having a higher avoiding level of carry-over is unfortunately mixed to the sample executing the analysis item having a lower avoiding level of carry-over, an error of the analysis result of the example executing the analysis item having a lower avoiding level of carry-over can be very small.

With regard to the rejection over Shinohara JP 63200066 A, Shinohara discloses how to determine an analysis order referring to an extent of a cross contamination between reagents. This reference shows different reagent liquids being mixed by using the same pipette.

The reagents in this reference, however, are different from the ones in the sample of the present invention and the characteristic features do not match the following characteristics of the present invention:

(1) the body fluid sample in the same sample bottle in the present invention is analyzed according to avoiding levels of carry-over, and

(2) sample sampling in the present invention using a pipette used for an analysis item having a higher

avoiding level of carry-over is executed prior to sample sampling for an analysis item having a lower avoiding level of carry-over.

These features are not taught by the Shinohara JP '066 reference and therefore the present invention, as now claimed, is not anticipated by JP '066 and is patentable thereover.

Concerning the rejection over Makiguchi JP 02087069A, this reference discloses how to determine an analysis order referring to an extent of a cross contamination between reagents in the same way as Shinohara JP '066 and does not disclose the following characteristic features of the present invention:

(1) the body fluid sample in the same sample bottle is analyzed according to avoiding levels of carry-over,

(2) sample sampling using a pipette used for an analysis item having a higher avoiding level of carry-over is executed prior to sample sampling for an analysis item having a lower avoiding level of carry-over.

These features are not taught by the Makiguchi '069 reference and therefore the present invention, as now claimed, is patentable thereover.

Relating to Clark et al. U.S. Patent No. 5,482,861 and the rejection of claims 24 and 25 under 35 USC § 103, Clark et al. discloses continuous and random access while performing a

plurality of different assays on the same or different samples. Clark et al., however, does not disclose the characteristic features of the present invention mentioned above. The present invention, as now claimed, is therefore patentable over Clark et al. taken either alone or in combination with either Shinohara JP '066 or Makiguchi JP '069.

In view of the foregoing amendments and remarks, Applicants contend that this application is in condition for allowance. Accordingly, reconsideration and reexamination are respectfully requested.

The Commissioner is hereby authorized to charge any fees that may be due in connection with this response to Deposit Account No. 50-1417.

Respectfully submitted,

Gene W. Stockman

Gene W. Stockman
Registration No. 21,021
Attorney for Applicant

MATTINGLY, STANGER & MALUR
1800 Diagonal Road, Suite 370
Alexandria, Virginia 22314
(703) 684-1120
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